

**Oneida County Board of Adjustment**  
**JULY 5, 2016**  
**9:00 a.m. MINOCQUA ROOM, 3<sup>RD</sup> FLOOR**  
**MINOCQUA CENTER, MINOCQUA WI**

---

Vice-Chairman Guy Hansen called the meeting to order at 9:00 am. in accordance with the Wisconsin Open Meeting Law.

Roll call of Members: John Bloom, “here”; Bob Rossi, “here”; Guy Hansen, “here”; Ed Hammer, “here”, Phil Albert, “here” and Norris Ross, “here”.

County Staff members present: Karl Jennrich, Zoning Director and Julie Petraitis, Program Assistant.

Guests present: See Sign in sheet

---

Approve the agenda. Motion by Ed Hammer, second by Bob Rossi to approve the agenda. With all members present voting “aye”, the motion carried.

Approve meeting minutes of December 2, 2015; December 21, 2015; March 1, 2016; and March 8, 2016.

December 12 should be December 21, 2015. Also March 7, 2016 on-site meeting minutes should be added along with the public hearing minutes of December 21, 2015.

**Motion by Ed Hammer, second by Bob Rossi to approve the changes as stated. With all members present voting “aye”, the motion carried.**

**Motion by Norris Ross, second by Ed Hammer to approve all meeting minutes as submitted. With all members present voting “aye”, the motion carried.**

Old Business:

a. Consider status of previous cases. **No updates at this time.**

b. Update on zoning statutes and ordinance amendments. **Mr. Jennrich updated the Board on the upcoming changes to Section 9.52, 9.54, 9.32, 9.33 and NR 115.**

Current Business:

a. Approve any available bills. **None.**

b. Consider current and pending appeals. **Two appeals were received and sent to the Board.**

c. Review/revise meeting/hearing calendar. **July 19 and August 2, 2016 in Minocqua at 9:30 am, onsite at 10:00 am, and public hearing at 1:00 pm.**

**9:15 am** - Vice-Chairman Guy Hansen opened the public hearing portion of the meeting being held in accordance with the Wisconsin Open Meeting Law and will be tape-recorded and sworn testimony will be transcribed. The Board of Adjustment asks that only one person speak at a time because of the difficulty in transcribing when several people are talking at once. The Board of Adjustment is made up of five regular members and two alternates, both alternates being present today, who will take part in the hearing until the public hearing is

---

closed, at which time the 2<sup>nd</sup> alternate will not take part in the deliberation. Anyone wishing to testify must identify themselves by name, address, and interest in the appeal and shall be placed under oath.

Vice-Chairman Guy Hansen stated that the Board will hear testimony from the appellant/agent first and then the opposition. Following that, the appellant and opposition will have an opportunity for rebuttal and then closing statements. The public hearing will then be closed from further testimony. Consideration and additional questions can be asked by the Board members of the appellant or the opposition during deliberations. You may stay for the disposition of the appeal. Upon conclusion of the deliberation of the Board, the Chair will call for a motion and a second, and a roll call vote will be taken for the decision of the Board.

Vice-Chairman Guy Hansen swore in Karl Jennrich, Zoning Director; Jimmy Rein, agent for H51 LLC, Attorney John Houlihan, Mark Hartzheim and Mark Pertile.

Secretary Phil Albert read the notice of public hearing for Appeal No. 15-012 of H51 LLC, owners, Jimmy Rein, PLS agent to request an area variance for a proposed pavement expansion of Lakeview Drive (private portion) for driveway and parking use. The property is described as Lot 1 of Oneida County Certified Survey Map No. 4363, being located in part of Government Lot 5, Section 11, T39N, R6E, PIN MI 2178-15, Town of Minocqua, Oneida County, Wisconsin. These activities are contrary to Section 9.94 A (1) of the Oneida County Zoning and Shoreland Protection Ordinance as amended March 4, 2016.

The Oneida County Board of Adjustment Rules of Procedure, Section 178.05(12), Chapter 17, Oneida County Code of Ordinance, provide that a timely appeal shall stay all proceedings and furtherance of the action appealed from, unless such stay would cause imminent peril to life or property.

Following the adjournment of the public hearing the Board may vote in open session for a decision of this appeal. Information on the decision can be had by calling or visiting the Planning and Zoning office during normal business hours or after the day or a later day set by the Board at the hearing. The appellant will be notified of the decision by certified mail.

Copies of appeals and related documents are available for public inspection during normal business hours at the Planning and Zoning Office, Oneida County Courthouse, Rhinelander, WI 54501. The Oneida County Zoning and Shoreland Protection Ordinance is available on the Internet at <http://www.co.oneida.wi.gov/>.

All media outlets were properly notified and the Oneida County Board of Adjustment conducted an onsite inspection on December 21, 2015.

---

Vice-Chairman Guy Hansen gave a brief review of the appeal. Conditional Use Permit #15-480 was issued to H51, LLC on July 20, 2015 to allow construction of the condominium units in question. The CUP request included gravel driveways. The variance was required for any structural driveway or access within 75' of the ordinary high water mark. On December 21, the Board of Adjustment met to consider appeal #15-012 requesting an area variance to basically pave the area between Lakeview Drive and the condominiums for driveways and parking. The Board tabled the request until a final stormwater plan, acceptable to and approved by the Town, County, and Lake Association could be presented. We will be dealing today with, and only with, that portion from the December 21, 2015 hearing dealing with paving the area in between the condo's and Lakeview Drive that was tabled waiting for complete plans detailing the structural and vegetative runoff protection from Lake Minocqua.

Mr. Rein: I think most of the correspondence was sent to you guys via e-mail. We have the, currently we have the DNR permit issued for the stormwater. REI redid the plans to allow for 40% TSS for the solids on the site, which is what the Town and the Lake Association wanted. REI computed all the sizes for the downspouts, so that is all done. The site is actually complete. Right now we have landscape around the entire building. The downspouts are constructed and stormwater system is in place. The only thing we do not have is a paved parking lot. We have a gravel parking lot there. We have met with the Town numerous times, Mark and I have met on this quite a bit to make sure the Town is happy with the results; the design by REI. I think we have achieved that. The only thing we have to do is there is a catch basin in the parking lot that needs to be adjusted. We will do that at the time of Pitlik, if this is approved for paving, basically re-level the cap at the time of paving. Other than that, I think we're pretty good to go.

Mr. Hansen: The other item I know is the letter from Minocqua for the area drain one and two will require sumps.

Mr. Rein: Correct. They were installed this past week. I got notice this morning that they were installed. Upon review, I am not real satisfied with the size of the sump in it. It is a shallow sump and it needed to be an 18" sump. I have to have them come back and take that sump apart and put in a larger sump. They are in place; we just need a larger one so I'll take care of that.

Mr. Hansen: Will the Town then, inspect that to see that they are the right size?

Mr. Rein: Yes, Mark has been doing onsites with me.

Mr. Hansen: Any questions?

Mr. Albert: It would be helpful if you could explain what took place, what changed.

---

Mr. Rein: Maybe what I'll do is I'll show you the big plan that we have. It's easier to explain than what REI put together. (Looking at the plan.) These are the downspouts; this is where you look at the collection of the roof water. The biggest thing on the site is because of the impervious surface of the structures, of the building, this water that comes off the roofs can't really hit the ground because once it hits the ground it becomes a load of water so if you take it off the roof water and put them directly in a catch drain and drain it to the Lake it's clean water. So, what we did is we re-worked all the drain locations. So all these locations are downspout drains that connect all together that come into a catch basin. This is the structure that is currently built right now. This is the large catch basin out by Lakeview Drive that we're talking we have to relocate the top of it. But it is in place. All these other ones are the catches for the downspouts. There is two yard drains and that's what we're talking about the sumps aren't deep enough. So there are two yard drains that we have to put the sumps in and go a little bit deeper. Everything else is installed. So, basically what happens is all the roof water drains through downspouts. The downspouts then collect to go to the catch basin and the catch basin has a 24" or 36" sump and that catches and drains out into the Lake. With this, the only area that is paved is basically right in front of the structure itself. There is going to be a little bit of green space as shown on REI's plans in front of each one of the elevator shafts and that allows the site to meet that 40% suspended solid, which is what the Town wanted and the Lake Association wanted and what we were shooting for.

Mr. Hansen: Their description talks about sumps one, two, and three so...

Mr. Rein: Pointed out the sumps to the Board.

Mr. Hansen: This is one.

Mr. Rein: Correct.

Mr. Hansen: So this collects all of the roof drains and here and here collects surface water?

Mr. Rein: There, yes the little yard drain. Basically the side where you have the landscaping and you have this green space, those green spaces dump into those yard drains and that has a sump in it that collects and that water goes back into the system to the main sump.

Mr. Rossi: Right into the Lake.

Mr. Rein: Right into the Lake.

Mr. Ross: Just to give us lay people an idea, how big around is that?

Mr. Rein: This catch basin (pointing to the plans). This is a 24" catch basin, kind of, like what you would see on a Highway.

Mr. Ross: Is there any reason it is not bigger?

Mr. Rein: That's just a standard size catch basin. Usually the big thing is the depth of a catch basin. But based on the fact of where your groundwater is in here you can't go too far down or the water will push the catch basin up, so you can only go down so far.

Mr. Hansen: So any material that is on the driveway, does that go to this catch basin?

Mr. Rein: Yes, what happens is basically from the elevator shaft to elevator shaft it all pitches towards the catch basin so about 2/3 of the parking area drains into the catch basin; that's why it has a surface catch on it. Basically you have just a section in front of each one of the units on the ends that does not go to the daylight. I think if you look on the plans it will show you how things are supposed to flow.

Mr. Hansen: So the roof drains go to the same catch basins as the driveway.

Mr. Rein: Correct, yep.

Mr. Hansen: And with that, you achieve a little over 40%...

Mr. Rein: Yes, 44% I think is what it is.

Mr. Rossi: When it's fixed like that how can you call it clear water or clean water?

Mr. Rein: Clean water? The DNR calls anything that comes off a roof clean water.

Mr. Rossi: And it's mixing with the...

Mr. Rein: That's where you have to have those catch basins, it's actually the sumps that collect those particles. That takes care of it.

Mr. Ross: So Pitlik and Wick is coming in to lower that sewer cover and then it takes it towards it?

Mr. Rein: Yes.

Mr. Hammer: I was curious about the note that you responded to from Pete saying that you can't compare different types of impervious surfaces. I was wondering (1) why he was asking that? Do you remember that?

Mr. Rein: There was a question at the last Board meeting about what's the benefit of going to pavement compared to gravel. So we asked REI to compare the two differences. They

---

run what they call a swim program to figure out that TSS loading. Gravel, pavement, asphalt, brick; they are all impervious surfaces so they can't differentiate between one or the other.

Mr. Hammer: Okay.

Mr. Rein: So that's kind of where we're stuck at.

Mr. Hansen: Any other questions?

Dick Garrett, Lake Association member, asked Mr. Rein what he thought the retention percentage is for a sump.

Mr. Rein: Forty percent.

Mr. Garrett: All along the Highway they're 18 percent and then when they pass it through the additional treatment at the end of the road it adds another two to three percent. So, the best they are going to get is 21 percent. Is that a special sump or just an ordinary...

Mr. Rein: I think what it is because you're looking at road debris that is all dirty water. Here what you're doing is the majority of the water going into that system is clean. That's the difference. That's how they come up with it.

Mr. Garrett: That is a definite difference. So, when the water drains down those Highway incline driveways does it go right across the road into the Lake or are you going to put a slit...

Mr. Rein: There is, 2/3 of that system gets pitched towards that catch drain so the driveway gets pitched towards that center catch drain.

Mr. Garrett: So the driveway will pitch this way and that way.

Mr. Rein: Correct, yep.

Mr. Hammer: But there will be 1/3 of it that is not...

Mr. Rein: There's about 1/3 of it that will run across the road. That will run across the road and hit where that grassy, between the pavement and the road. You'll get most of your particles to settle in that grassy section before it lands in the Lake.

Mr. Garrett: Who certified it? A professional?

Mr. Rein: REI out of Wausau. It is REI Engineering out of Wausau.

Mr. Hansen: The letter that we received from the Town indicates that the Lake Association has seen the plan and it's acceptable to them.

Mr. Hartzheim: I met with the Lake Association and we discussed where we're at with things. Basically they told me that as long as the Town is happy, they met the 40% they were willing to go along with it. Dick, I do not know if you were at that meeting.

Mr. Garrett: I was not at that meeting. Who was there from our group?

Mr. Pertile: Sally Merwin was and there were three or four others. I don't think they did anything in writing.

Mr. Albert: That was one of the conditions when we tabled it, was that there was some agreement or some direction/verification from the Lake Association that they were satisfied with what was being proposed. You are able to verify that is the case.

Mr. Pertile: From our discussion at the meeting, I can vouch that is where the discussion was.

Mr. Hartzheim: I also, separately, spoke with the President and specifically mentioned that this is one of the requirements was the Lake Association being able to review. With that in mind, I talked with Pete Wegner and asked if I could include that in my letter; that I spoke with the President and provided it met the 40% TSS inspection and the applicant adhered to the other CUP conditions relating to water quality that they would not be opposed to it.

Mr. Albert: They received a copy of this, your letter.

Mr. Hartzheim: I don't know if, I don't think I copied them in on my letter to the County but I did advise them that I would be writing a letter to the County stating that they did, I did talk to the President and I asked "can I put this in the letter" and she said yes. She actually thought she'd be at this hearing. I'm not sure if you know, she thought you'd be here, too. She's aware of everything.

Mr. Albert: This should either be an exhibit or should be part of the file.

Mr. Hansen: Let's make it an exhibit.

**Can't hear what is being said here.**

Mr. Hansen: Pete said this would be acceptable to be included in the letter.

Mr. Hartzheim: Yes, when we were talking about trying to get the applicant to hearing. I asked if I could just relay in my letter that I spoke to the Lake Association President and she was okay with, she wanted that 40% and the CUP conditions related to water quality, stormwater were met, and he

---

said that would be okay if I included that in the letter. He said they did not need to provide a separate letter from the Lake Association.

Mr. Jennrich: We just want to make sure the Lake Association weighed in on it.

Mr. Ross: We have an e-mail from Julie on June 27<sup>th</sup> that Pete has attached a letter from the Town of Minocqua in parenthesis it says it includes the Lake Association opinion. I think we ought to put an e-mail in there as an exhibit.

Mr. Hansen: What is the date of that e-mail?

Mr. Albert: The letter is June 8 and the email in June 27.

Mr. Hartzheim: I think what...

Mr. Hansen: What date is the email?

Mr. Rossi: 27<sup>th</sup> of June.

Mr. Pertile: There's a couple other things that happened as part of this process. There were some amendments to the Condo docs including maintenance of the system and maintenance, if this pavement is approved today, maintenance of the pavement. I think it is a requirement that they have to clean it a minimum of twice a year, if not more. The catch basins have to be cleaned out.

Mr. Houlihan: And we did include those in the Condominium declarations.

Mr. Rein: We just haven't recorded the condo declarations because if we don't get the paving, it's all contingent on paving.

Mr. Albert: But those are in the declarations?

Mr. Hartzheim: Just a note about the Lake Association. We have a great relationship with them and they have done some really nice things with the water quality and things like that. I think they would probably try to shoot for the moon and get even more but the CUP condition was 'shall be made available for review by them'. I just don't want you to get confused that they have to approve. We did go through and they had a lot of opportunity going in to be aware of what was being done. It's not as if it's subject to their approval because they would want to go, probably, even further but the Town thought the initial 40% reduction on the site was agreeable and a good improvement for the site to help delay any fears of the water quality for this development.

Mr. Rossi: I think a letter from the Project Engineer mentions something, I never even heard of it, that it should be dust-free driving surface; should be finished with a dust-free driving surface. I never even heard of that.

Mr. Rein: What dust free is, is asphalt, concrete, brick...

Mr. Rossi: Oh, okay.



Mr. Rein: Like a gravel would be dust surface even though its pervious surface there is dust associated with it. So that is what he was trying to get at. He recommends the idea of going with an asphalt or concrete or brick surface.

Mr. Rossi: Thank you. The other thing I think the recommendations by the Project Engineer are to be incorporated. They suggest cleaning of the CB's in the spring of the year.

Mr. Rein: Yep. What we've done is in the Condo Declaration's we've incorporated that all the TSS loading requirements are met and followed so that anybody buying a condo unit, like ten years down the road, still realizes that its part of their approval of the Conditional Use Permit and the Condominium that this has to be maintained.

Mr. Rossi: I don't know how those CB's are and the cleaning of them, but when you do clean them the debris that you get from that you...

Mr. Rein: What you get is a Septic Pumper truck comes out and pulls the cap off, they vacuum them out. They basically take all the water and settlement out of it and that gets dispersed at a location.

Mr. Rossi: Then that's their responsibility.

Mr. Rein: Exactly. And usually, because that debris is within the sanitary they clean out their trucks and get their trucks ready to go and then they do catch basins for a day. They'll drive around and do multiple catch basins for the Towns and private individuals, wherever and that has to go to a different location than their normal dump.

Mr. Jennrich: It is not domestic waste.

Mr. Hansen: Does the Town monitor compliance with that schedule?

Mr. Pertile: I guess we can verify when it has been cleaned. We'll check catch basins once in a while and if they're full of sand, obviously, that is a result that that Condo Association is not maintaining their system and that will be their responsibility.

Mr. Rossi: Like see the bill from the septic company that this was performed. Just like they do with the septic tanks.

Mr. Pertile: I don't know if we'd go that far but more or less probably part of our maintenance, because it does cross the road, we'd probably just check it when we do the cleaning of our system and notify the Association that it's time for them to take care of their system.

Mr. Hansen: The Condo Association would keep a record of that, I would think, that if someone ever wanted to check they could look at their records. So, we have two exhibits, Phil.

Mr. Albert: Yes. The June 8 letter from Mark that covers the Lake Association and then Pete's e-mail referring to the discussion with the Lake Association.

---

Mr. Hammer: Not that this is a problem, but given that this is a County Conditional Use Permit why couldn't the Condo Association just send that verification to the County?

Mr. Jennrich: They can.

Mr. Hammer: I mean that way any concern about it would be allayed because Karl would get it. If he didn't get it he would act on it.

Mr. Jennrich: Try to act on it.

Mr. Pertile: I guess one other thing, too, on the Condo Plat areas that are identified on your plans as grassy areas were identified on the Condo Plat that they shall remain grassy areas for the TSS loading. I think that is important. In the future, they may want to pave those areas. They may be able to but you may have to show us other measures that you install to reach that 40%.

Mr. Hansen: Do you want the County to...

Mr. Hammer: I just think that it would make it really clean. Then there's no...

Mr. Jennrich: So are you saying you're going to approve it already?

Mr. Hammer: I'm not going to vote, I'm just asking questions.

Mr. Jennrich: Again, from the County's perspective we look at pavement as a structure that requires a 75-foot setback. I could argue here that there is a unique physical characteristic on this site that would require those areas be paved. But, in the same breath, this was a commercial developed site pretty much its whole lifetime. There have been various impervious surfaces, on and off, since this property has been in development. I could say why bother paving those gravel areas but again in the same breath if you don't pave those gravel areas or put some type of impervious you're just going to get a bunch of fines washing down into those structures. I would rather see pavement there than drives. The only thing to keep in mind is there is a paved road between this project and the lake. Also, there would be a 40% reduction in total suspended solids, which is a huge issue not only for us but also for the Lake Association and the Town of Minocqua. This project is on City sewer and water and they have provided additional green space area at least to try to reduce initially the TSS. As Mr. Houlihan did state, in the Condominium Declarations that we have taken a preliminary look at, it does talk about maintenance of the structures, including the catch basins. I think it is supposed to be twice a year if I'm not mistaken. So at least there is something in the Condominium Declarations and as part of the Conditional Use Permit that we could use to enforce. That is the only comments the County has.

Mr. Albert: There's probably even a question about liability if there was ever any legal action taken based on deterioration of the bay. The Condominium Association has documentation that is proving that they are controlling that stormwater/wastewater. It could be a factor in any liability that would be taken against the Association.

Mr. Rein: You're always better off keeping records.

---

Mr. Hansen: We've heard from the appellant and the County. Any other questions for either party? At this time, I will close the questioning and we'll consider the question at hand. I don't know that we need to go through those three requirements we're really only deciding on if what we asked for before is an acceptable stormwater plan. I think we're deciding if this plan is acceptable and has been shown to be acceptable by the Town and Lake Association.

Mr. Rossi: I think that it met the requirements of both of reaching that 40%. I think that was the goal, wasn't it. Is was a common thing; an agreement between the Lake Association and the County that this meet 40% and I think...

Mr. Jennrich: Or try to get the 40%. Again, unfortunately with a lot of the catch basins on the Island a lot of them are not meeting that at this time.

Mr. Rossi: They aren't. Is it because they aren't maintained or what?

Mr. Rein: It's mostly all road water and it is hard to achieve with road water.

Mr. Albert: Well, based on the decision process we're supposed to follow in terms of the area variance and provide an increment of relief for dimensional restriction such as a building height, setback, whatever I think that we have, as you have mentioned, we have addressed no harm to the public and unnecessary hardship by the action we took at the December 21, 2015 meeting. I would move to approve the area variance that has been requested in that the alternatives have been considered an upgraded, refined plan for stormwater release has been provided and has been agreed to by both the Town of Minocqua and the Lake Association. Second by Norris Ross. On roll call vote: John Bloom, "aye"; Bob Rossi, "aye"; Guy Hansen, "aye"; Phil Albert, "aye"; and Norris Ross, "aye".

**2:07 p.m. - The meeting was adjourned on a motion by John Bloom and second by Ed Hammer; and all members voting aye.**

Harland Lee, Chairperson

Phil Albert, Secretary

---

---